

STATE OF INDIANA )  
 )  
COUNTY OF MARION )

SS:

IN THE MARION SUPERIOR COURT  
CAUSE NO.49D07-0408-PL-001624

STATE OF INDIANA,  
Plaintiff,

v.

INDY FITNESS, INC.,  
and BRIAN LINDO

Defendants.

**FILED**

70

NOV 16 2004

*Doris Ann Snodder*  
CLERK OF THE  
MARION CIRCUIT COURT

**DEFAULT JUDGMENT**

The Plaintiff, State of Indiana, having filed its Motion for Default Judgment and the Court having read the same and being duly advised in the premises, now finds:

1. The Court has subject matter jurisdiction and personal jurisdiction over the Defendants.
2. Defendants, Brian Lindo and Indy Fitness Inc., were served with notice of these proceedings and a copy of the Amended Complaint for Injunction, Restitution, Costs and Civil Penalties.
3. Defendants have failed to file an Answer.
4. Defendant, Brian Lindo, is not an infant, incompetent, or in military service.

**THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED** that the Motion for Default Judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendants, Brian Lindo and Indy Fitness Inc.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that pursuant to Indiana Code §24-5-0.5-4(c)(1), the Defendants, their agents, representatives, employees, successors and assigns are permanently enjoined from closing a health spa facility if it/he:

A. fails to provide the purchaser a refund based upon the total consideration proportional to the elapsed time portion of the contract at the time of unavailability, when the health spa's facilities or service described in the contract are no longer provided before full receipt of the services or use of the facilities for which the buyer contract, unless the Defendants:

1) offer the buyer the option of a proportional refund or to choose to complete the unused portion of the contract, including renewal periods, at another location that is owned, controlled, affiliated with, or operated by the Defendants. Any such modification of the contract must be in writing.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that judgment is entered for the Plaintiff, State of Indiana, against the Defendants as follows:

1. The Defendants' contracts with the following are cancelled pursuant to Ind. Code § 24-5-0.5-4(d):

1. Tim Starkey
2. Ron Elkins
3. Gabrielle Bovenzi
4. Michael Schmidt
5. Diana Jones
6. Sandra Nichols
7. Adam Jones
8. Keith & Angela Hanson

9. Jim Louck

10. Cindy Anderson

11. Janet Fullen

12. Gene Reed

13. David Boyles

2. consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2) totaling Two Thousand Six Hundred Ninety-Three Dollars and Forty-Five Cents (\$2693.45), to be paid to the Indiana Office of Attorney General on behalf of the following consumers in the following amounts:

1. Tim Starkey	\$288.00
2. Ron Elkins	\$185.80
3. Gabrielle Bovenzi	\$185.80
4. Michael Schmidt	\$176.50
5. Diana Jones	\$74.25
6. Sandra Nichols	\$204.75
7. Adam Jones	\$120.00
8. Keith & Angela Hanson	\$391.60
9. Jim Louck	\$150.00
10. Cindy Anderson	\$90.75
11. Janet Fullen	\$321.00
12. Gene Reed	\$99.00
13. David Boyles	\$406.00

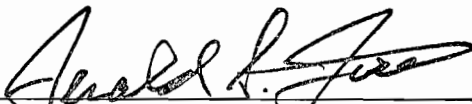
3. Costs pursuant to Ind. Code §24-5-0.5-4 awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this cause in the amount of Four Thousand Four Hundred and One Dollars (\$4401.00).

3. Civil penalties pursuant to Ind. Code §24-5-0.5-4 in the amount of Six Thousand Five Hundred Dollars (\$6,500.00) for the Defendants' thirteen (13) knowing violation of the Indiana Deceptive Consumer Sales Act;

4. Civil penalties pursuant to Ind. Code §24-5-0.5-8 in the amount of Six Thousand Five Hundred Dollars (\$6,500.00) for the Defendants' thirteen (13) intentional violation of the Indiana Deceptive Consumer Sales Act;

For a total monetary judgment in the amount Twenty Thousand Ninety-Four Dollars and Forty-Five Cents (\$20,094.45).

**ALL ORDERED, ADJUDGED AND DECREED** on this 16 day of Nov., 2004.

  
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Judge, Marion Superior Court

**DISTRIBUTION:**

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